

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS**

**IN RE: ALTERNATIVE DISPUTE RESOLUTION
ACT OF 1998**

GENERAL ORDER NO. 32

Purpose. In accordance with the Alternative Dispute Resolution Act of 1998, the United States District Court for the Western District of Arkansas has established an Alternative Dispute Resolution (ADR) program. This program is designed to afford litigants an opportunity to reach the mutually satisfactory resolution of disputes prior to litigation and encourage and promote the use of ADR in this district.

The ADR Administrator. The Clerk of Court is appointed "ADR Administrator." While attached administratively to the clerk's office, the ADR Administrator reports directly to the Chief Judge of this Court. The ADR Administrator shall:

- (1) Serve as liaison to judges and other court staff on matters relating to the ADR program;
- (2) Direct and coordinate the ADR program;
- (3) Draft and propose revisions of the ADR plan, local rules, or procedures that may improve the efficiency and effectiveness of the ADR program;
- (4) Prepare any applications for funding of the ADR program by the United States Government and other entities, and prepare reports required by the United States Government or other parties on the use of funds in the operation and evaluation of the ADR program;
- (5) Develop and maintain such forms, records, docket controls, and data as may be necessary to administer and evaluate the program; and,
- (6) Periodically evaluate the ADR program and submit the resulting evaluation to the Court, along with any recommendations for changes, if needed.

The ADR Program. On the date of the enactment of the Alternate Dispute Resolution Act of 1998, the Court had an ADR program in place, the provision of settlement conferences conducted by a United States magistrate judge who has been trained to serve as a neutral in alternative dispute resolution processes. Upon examination and review, the existing program is adopted as the ADR process of the court.

(1) Exempted cases. Unlike otherwise ordered by the Court, the following cases are excluded from the program:

- (a) Appeals from rulings of administrative agencies;
- (b) Social security cases;
- (c) Bankruptcy appeals;
- (d) Habeas corpus and extraordinary writs; and
- (e) Prisoner civil rights cases.

Consideration of ADR Process. Litigants in all civil cases, except as exempted above, shall consider the use of the alternative dispute resolution process provided by this court at an appropriate stage in the litigation. Counsel of record for all parties must confirm in writing, prior to trial, on a form to be provided by the Clerk, that counsel and the litigants have considered the use of the alternative dispute resolution process in each case.

Procedure:

(1) This district's United States Magistrate Judges are authorized to conduct settlement conferences in each civil case other than those cases exempted above. Such settlement conferences:

- (a) may be conducted if either party requests the same and the reviewing United States Magistrate Judge believes such would be useful;
- (b) will be conducted if all parties so request; and,
- (c) will be conducted if the United States District Judge to whom the case is assigned has entered an order authorizing a United States Magistrate Judge to conduct a settlement conference in that case and it appears to the United States Magistrate Judge reviewing the pleadings and other matters appearing on the face of the matter, that such would be useful.

(2) All settlement conferences:

(a) will be conducted in the Fort Smith, Fayetteville and Harrison Divisions by Honorable James R. Marschewski and in the Hot Springs, El Dorado and Texarkana Divisions by Honorable Barry A. Bryant.

(b) shall be conducted at such times and under the procedures as may be established by the respective United States Magistrate Judges.

(c) the United States Magistrate Judges are specifically authorized to require and order all parties and their lead counsel to personally appear at settlement conferences.

- (3) A Magistrate Judge to whom a case is referred for settlement conference shall disqualify himself or herself as required under 28 U.S.C. 455 and Canon 3 of the Code of Conduct for United States Judges with respect to disqualification.

Confidentiality. Communications of litigants, attorneys, and neutrals during the ADR process shall be considered confidential, and disclosure of such communications is prohibited. However, the neutral shall be permitted to inform the presiding judge and/or clerk's office of the outcome of the process.

Other ADR Processes. the litigants shall not be prohibited or discouraged from utilizing other ADR processes to assist in the resolution of issues in controversy, such as mediation, minitrial, and arbitration.


Jimm Larry Hendren
Chief Judge

Date

April 3, 1999

U. S. DISTRICT COURT
WESTERN DIST. ARKANSAS
FILED

APR 07 1999

CHRIS R. JOHNSON, Clerk
By 
Deputy Clerk